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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re P.D., a Person Coming
Under the Juvenile Court Law.

B292070

(Los Angeles County
Super. Ct. No. 18CCJP01973)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

J.D.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles
County, Robin R. Kesler, Referee. Affirmed.

The Beverly Hills Law Building and Mitchell Keiter, for
Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine Miles,
Assistant County Counsel, and Stephen D. Watson, Deputy
County Counsel, for Plaintiff and Respondent.

Substantial evidence supports the juvenile court's order,
which we affirm.

I

This dependency case involves a mother and three of her children. After Mother gave birth to her last child in 2018, the Department of Children and Family Services filed a petition as to these three children. Appellant J.D. is the father of the two older children and he alone appeals.

During the 2018 birth, a hospital found methamphetamine in Mother's blood. Mother said she used the drug because she was stressed out. She now had four children and she was doing everything on her own. She said the stress got to her and forced her to snort methamphetamine. Mother said she snorted when she was out with friends while the children were elsewhere. Mother also tested positive for methamphetamine during the birth of her third child in 2012. Mother declined to disclose that father's name because he was "not involved in her life" The father of that child, born in 2012, is appellant J.D.

S.C., the father of the infant born in 2018, was released from custody the week before the infant's birth. S.C. did not finish high school because he was incarcerated at the age of 15 for robbery and served a four-year sentence. S.C. has four other children. During her 2018 birth hospitalization, Mother denied knowing S.C.'s whereabouts. The Department later located S.C.,

who has an extensive criminal history involving battery, drugs, robbery, domestic violence, and forgery. S.C. was homeless and living with a friend. S.C. was unwilling and unable to care for his infant daughter: he said he could not provide for his daughter's care because of his living situation. S.C. is not involved in this appeal.

Mother also has a six-year-old son and a 10-year-old daughter. (Ages are as of March 2018.) Appellant J.D. is the father of these two children.

J.D. was incarcerated in state prison on a 10-year robbery sentence at the time of the 2018 birth. He is a registered controlled substance offender. His record includes robbery, drugs, weapons possessions, and kidnapping. J.D.'s criminal history appears at pages 35 to 45 of the Clerk's Transcript.

After the 2018 birth, the Department got involved and assessed the family at "very high" risk of future neglect of the children. The court ordered drug testing for Mother. The four results were no show, negative, positive for amphetamines and methamphetamines, and another no show.

The Department set out 34 pages of information in a May 2018 Jurisdiction/Disposition Report. It reported methamphetamine is an inherently dangerous drug that causes visual and auditory hallucinations, sleep deprivation, intense anger, paranoia, and depression. A person under the influence of this drug cannot safely care for a child, which places the child at an immediate risk of harm.

Mother admitted to being under the influence of methamphetamine while the children were in her care. Mother admitted using methamphetamine for years but said she did not think she had a problem.

On August 2, 2018, the Department filed an amended petition concerning three children: the infant, the six-year-old, and the 10-year-old. This petition alleged Mother had a history of methamphetamine use and was a recent abuser of the drug, which placed her children at risk of serious physical harm. The same petition alleged father J.D. is a registered controlled substance offender, had a criminal history for drug and violent offenses, and was incarcerated on a 10-year robbery sentence. The Department alleged these circumstances placed the three children within the juvenile court's jurisdiction according to subdivision (b)(1) of section 300 of the Welfare and Institutions Code. (Statutory citations are to this code.)

Father J.D. refused to attend the child custody hearing and wanted an attorney to represent him there. The court appointed an attorney for him.

At the August 2, 2018 hearing, J.D. appeared by telephone. Present at the hearing were J.D.'s lawyer, as well as lawyers for Mother, for her children, and for the Department. Mother was physically present, as were children and their maternal grandmother.

The court asked Mother about her signed waiver of rights. Mother said she wanted to plead no contest to the amended language in count B1. The court asked Mother if she had been threatened or promised anything to take this action. Mother said no. Counsel joined in the waivers and the no contest plea and stipulated to a factual basis. The court found Mother's decision was knowing, intelligent, express, and understandable. The court sustained the charge and found it true.

The court then turned to father J.D. J.D.'s lawyer said J.D. asked the court "be stricken and [J.D.] be found nonoffending. I

would argue it isn't sufficient evidence of current risk. It merely alleges historical information. I would ask that it be dismissed. Thank you, Your Honor." The court found the petition's charges against J.D. to be true. The court further noted J.D.'s "current 10-year sentence puts the children at risk that he is not available for them at this time to provide for them and take care of them." The court ordered the Department to give J.D. pictures and monthly updates. The court suggested J.D. speak with his lawyer about options once J.D. was released from custody, and advised J.D. "to take any and all drug programs that you have available to you." J.D. said, "Yes, Ma'am." The court explained J.D. would not be ordered back to court for further proceedings unless Mother was not participating in programs and "we have to make a long-term plan for the kids" J.D. said, "Okay."

J.D. has appealed. Neither Mother nor the children join in this appeal.

II

J.D. incorrectly argues evidence did not support the court's findings. Ample evidence, however, showed a substantial risk the children would suffer serious physical harm as a result of the failure or inability of their parents adequately to supervise or protect the children. (See Welf. & Inst. Code, § 300, subd. (b)(1).) Mother had a long term and persistent history of abusing an inherently dangerous drug. Methamphetamine causes visual and auditory hallucinations, sleep deprivation, intense anger, paranoia, and depression. The drug rendered Mother unfit to provide safe care and supervision. Lack of care and supervision puts children at an immediate risk of serious physical injury. The Department proved these facts. Mother did not contest them.

J.D. notes Mother was meeting the children's material needs: food, shelter, clothes, and such. This argument is wide of the target. The Department did not say the children lacked food or shelter. (See § 300, subd. (g) [child left without support].) Rather, the charge was Mother's drug use put her children at risk of injury. (See § 300, subd. (b)(1) [risk child will suffer physical harm because parent could not or would not supervise and protect the child].)

Food, shelter, and clothing do not eliminate risk. The world can be unforgiving. Unsupervised children face an infinity of perils. Some attack with shocking speed and finality: fire, falls, cars, abductors -- the list is long. Children need reliable protection and these children were not getting it. This was the Department's case and Mother did not dispute it.

J.D. was even more absent than drug-abusing Mother. In prison, J.D. was incapable of providing child care. He argues his plan is for Mother to give the care. But the methamphetamine disqualified her.

J.D. cites *In re Anthony G.* (2011) 194 Cal.App.4th 1060, but that case concerned subdivision (g) of section 300, which concerns whether the child has support. (See *In re Anthony G.*, at pp. 1064-1066.) This case is about risk of injury, not lack of support.

J.D. also cites *In re Andrew S.* (2016) 2 Cal.App.5th 536, but there the Department failed to show that an absent father could not arrange for proper child care. By contrast, the Department proved J.D.'s plan is defective.

DISPOSITION

We affirm.

WILEY, J.

WE CONCUR:

BIGELOW, P. J.

STRATTON, J.